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C O N F I D E N T I A L SECTION 01 OF 02 PHNOM PENH 000244

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C O R R E C T E D C O P Y -- CLASSIFICATION REASON

DEPARTMENT FOR EAP/MLS, G/TIP AND EAP/RSP

E.O. 12958: DECL: 02/02/2017

TAGS: [PGOV](#) [PHUM](#) [PREL](#) [CB](#)

SUBJECT: CAMBODIA'S TROUBLED JUDICIARY AND DRAFT ANTI-TIP
LAW

REF: PHNOM PENH 207

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This message classified by Gaurav Bansal, Political Officer for reasons
1.4 (b) and (d).

1. (C) Summary. On February 8, the Ambassador met Cambodia's Minister of Justice Ang Vong Vathana, thanking him for swift Cambodian action in reclosing the Chhay Hour II hotel and returning the owners to prison. The Minister noted that the questionable release of the owners by the Appeals Court is under RGC investigation. The Ambassador also thanked the Minister for RGC cooperation in PROTECT Act cases. However, the Ambassador expressed deep concern that an Amcit pedophile in Sihanoukville bribed local court officials to obtain his release and nearly escaped Cambodia before he was rearrested through Embassy intervention. The Ambassador apprised the Minister of an NGO report detailing problems with Sihanoukville authorities' handling of TIP cases. The Ambassador also noted that the Embassy has reviewed the draft anti-TIP law and recommended changes to strengthen the draft legislation. End Summary.

Judicial Problems Surrounding TIP Cases

2. (C) The Ambassador thanked the Justice Minister for the RGC's quick and effective reaction when the Embassy discovered that the Chhay Hour II hotel had reopened under the ownership of the same individuals who had been convicted and sentenced on TIP offenses in 2006 (reftel). The Minister reiterated his surprise that the men had been released from prison without his knowledge, adding that the Appeals Court judge who had overturned their sentences was under investigation.

3. (C) The Ambassador also thanked the Minister for the MOJ's role in the deportation of Amcit Michael Pepe, who is facing PROTECT ACT charges in the U.S. The Cambodian government's overall cooperation on PROTECT Act cases has been laudable, continued the Ambassador. However, in the case of another Amcit arrested on pedophile charges, the Amcit admitted to Embassy officers that he paid a bribe of USD 21,000 to win his release from prison. The Ambassador stated that the Embassy learned this information when the Amcit approached the Embassy and complained that he had paid the money to Sihanoukville court officials but had only been released on bail. The Amcit explained that he had been expecting to have the charges dropped and his passport returned so that he could leave the country. We also provided the Minister with a report from the NGO APLE about

the poor handling of TIP cases by the Sihanoukville court and police, noting that the poor handling of the case involving the Amcit was not isolated. The Minister promised to look into the matter.

Draft Anti-TIP Law

14. (C) Turning to the draft anti-TIP law, the Ambassador pointed out that the Embassy was following the progress of the legislation very closely. In general, the Embassy agrees with other donors and TIP legal experts that the draft law is softer on TIP crimes than existing legislation. Specifically, the Ambassador noted USG concerns that the law would lower existing prison sentences for sexual intercourse with minors from ten to twenty years under the 1996 law to two to five years under the draft law. Weakening the prison penalties is the wrong signal to send potential perpetrators, he argued, and is inconsistent with the RGC's obligation to protect minor children from sexual predators. Another problem surrounds the draft law's affording judges the option of penalizing perpetrators with prison terms plus fines, or simply levying fines of between USD 1,000 and USD 2,500 in lieu of prison sentences. The Ambassador underscored Embassy concerns that the option of fining suspects would lead to bribery of judges by those accused -- who will prefer to be fined rather than go to prison. Given the Cambodian judiciary's already poor reputation for dispensing justice to the highest bidder, the Ambassador said that the and/or option would lead to abuse and urged the MOJ to reconsider the draft law.

15. (C) Upon hearing these concerns, the Minister turned to Undersecretary of State Chan Sotheavy, who is charged with drafting the new law, and requested a response. She opined that judges should have flexibility to decide on sentencing, and defended the draft legislation. The Minister and his subordinate then began to argue in Khmei about the draft legislation. The Minister pointed out to the Undersecretary that a judge in Sihanoukville stood accused of taking USD 21,000 to release an accused pedophile, and he did not think that such judges should have flexibility. The Undersecretary

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countered that the Anti-Narcotics law has similar flexibility as that encompassed in the draft anti-TIP law. (Note: The current Anti-Narcotics law does not give judges sentencing leeway, although the previous anti-drug law did allow those convicted to pay fines in lieu of serving prison time. End Note.) The Ambassador argued that TIP crimes are fundamentally different than those surrounding narcotics issues since TIP is equivalent to slavery and targets the weakest and most vulnerable of Cambodia's people. At the Minister's request, the Ambassador promised to send a letter outlining Embassy recommendations for improving the draft anti-TIP law.

16. (SBU) Comment: We continue to remind RGC officials that while TIP cooperation in Phnom Penh has improved, police and judicial action in the provinces leaves much to be desired. Moreover, we have impressed on interlocutors that the Embassy monitors those provinces where TIP activity is most problematic, and will continue to identify law enforcement and judicial officers who fail to take seriously their anti-TIP responsibilities. Sihanoukville is a growing problem, and one that should concern those RGC officials who have been adamant that they do not want the growing beach resort town to become another Southeast Asian sex tourism site. End Comment.

MUSSOMELI